

DOCKET NO. 2004-126-E

**CONSUMER ADVOCATE’S REPLY TO MOTION TO STRIKE
TESTIMONY OF GLENN A. WATKINS**

SCE&G first argues that the above portion of Mr. Watkins' testimony is irrelevant and extraneous to the issues before the Commission in the present action and is a reargument of a matter that has been previously addressed by him and is presently under consideration by the Commission in the currently pending SCPC PGA case. Contrary to these assertions, the contested portion of Mr. Watkins' testimony is relevant for the following reasons. First of all, what is involved in the case under consideration in this docket is a web of affiliate relationships that often are mutually dependent and interconnected. The contractual arrangement between SCE&G and SEMI cannot be evaluated in a vacuum but, rather, has to be viewed against the

backdrop of complex relationships among SCG, SCPC, SEMI and SCE&G. It is an established principle of regulatory law that relationships between affiliated companies should be scrutinized with care. See, Hilton Head Plantation Utilities v. Public Service Commission of S.C., 312 S.C. 448, 441 S.E. 2d 321 (1994). By striking the said portion of Mr. Watkins' testimony, an important piece of the picture as well as a rationale underlying the transaction, would be lost. If SCANA chooses to structure its affiliate relationships the way it does, it should not be hiding them by asking this Commission to compartmentalize. Mr. Watkins is not simply rearguing his points as set forth in his testimony in the currently pending SCPC PGA case.

Second, SCE&G opened the door to Mr. Watkins' argument by stating in Docket No. 2004-2-E, in the part directly related to the Jasper contract, that when SCG Pipeline held an open season, only SEMI subscribed. (Cross-examination of Mr. Cunningham.) Page 17 of Mr. Watkins' testimony explains how and why that exclusive subscription came about and what are the implications thereof.

Finally, SCE&G states that somehow the discussion of this issue "may well constitute an improper *ex parte* communication on a matter presently pending before the Commission. Since the Consumer Advocate does not quite understand the substance of this assertion, he finds himself in a difficult position to reply. However, the Consumer Advocate prefiled the testimony in accordance with the Commission's Filing Letter. The testimony would have been available as a matter of public record were it not for SCE&G's request to treat these issue confidentially. In deference to the Company's concerns, the Consumer Advocate filed entire testimony of Mr. Watkins under seal, even though some parts of the testimony, including the portion complained of by SCE&G, could have been filed as part of the open record.

Therefore, the Consumer Advocate respectfully requests that the Commission deny the

Company's motion.

IN THE ALTERNATIVE, the Consumer Advocate respectfully requests that the Commission not address the issue at its weekly meeting but allow the opportunity to address and argue the issue at the appropriate time during the hearing in this docket. It is especially important in view of the Company's assertion regarding *ex parte* communication without specifically stating in what respect the communication rules might have been breached.

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June 21, 2004

CERTIFICATE OF SERVICE

This is to certify that I, Hana Pokorna-Williamson on behalf of Elliott F. Elam, Jr., Acting Consumer Advocate, have served this day the foregoing **Reply to Motion to Strike** upon the Executive Director of the Commission and the persons named below, at the addresses set forth, by deposit in the United States mail, postage prepaid and by electronic mail.

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